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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,941	05/22/2001	Murray Kucherawy	SMI/0004.01	1938
28653	7590	06/16/2005		
JOHN A. SMART 708 BLOSSOM HILL RD., #201 LOS GATOS, CA 95032			EXAMINER LEZAK, ARRIENNE M	
			ART UNIT 2143	PAPER NUMBER
DATE MAILED: 06/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,941

Applicant(s)

KUCHERAWY, MURRAY

Examiner

Arrienne M. Lezak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Examiner notes that no Claims have been added, amended or cancelled.

Applicant's arguments with respect to Claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over extensive consideration of US Patent 5,937,162 to Funk.

3. Regarding Claims 1, 13 & 21, Funk discloses an email system and method for processing a plurality of e-mail messages that are being sent to recipients at various destination domains, (Abstract; Fig. 9; & Claims 1-46), the method comprising:

- establishing a plurality of queues in the system, zero or more of these being specific queues for handling mail to a specific set of domains, and one being a general queue for transferring e-mail to domains not handled by specific queues, (Col. 2, lines 1-22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45), (Examiner notes that Funk does not

specifically enumerate a "general" queue for handling domains not handled by "specific" queues; however the same would have been obvious to one of ordinary skill in the art at the time of invention by Applicant as Funk clearly teaches queuing by destination address to (special) designated hosts wherein any mail not sent to a specific designated host would obviously be placed in a "general" queue for continued processing. The motivation to "pre-sort" messages into "general" and "specific" queues is to speed up message delivery time, (Col. 11, lines 49-52), and reduce "clumping", (Col. 12, lines 30-34));

- receiving at the system a request to process for transfer a plurality of outbound e-mail message, each e-mail message specifying delivery to at least one recipient at a particular domain, (Col. 2, lines 1-22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45); and
- for each given e-mail message, processing the given e-mail message by:
 - o determining (pre-sort) what domain the given e-mail message is destined for, if the determined domain for the given e-mail message is a specific domain handled by a corresponding specific queue, assigning the given e-mail message to the corresponding specific queue for transferring the given e-mail to said specific domain, otherwise assigning the given e-mail message to said general queue, (Col. 2, lines 1-22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45); and

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- o without waiting for confirmation that the given e-mail message has been successfully processed for transfer to another system, proceeding to process the next one of the e-mail messages, (Col. 11, lines 36-67; Cols. 12-14; & Col. 15, lines 1-3), (Examiner notes that the pre-sorting, queueup, hash and control processors clearly and obviously do not require confirmation of successful processing into particular queues).

Thus, Claims 1, 13 & 21 are found to be unpatentable over considerable consideration of the teachings of Funk.

4. Regarding Claims 2, 3, 4, 19 & 20, Funk discloses an (email) system, wherein said system comprises one general queue and optional specific queues, (per pending Claim 2), wherein said at least one specific queue only handles e-mail messages that are destined for the specific queue's corresponding domain, (per pending Claim 3), wherein said general queue handles, (processes to alternate domains – per pending Claim 20), all e-mail messages that are not processed by said at least one specific queue, (per pending Claims 4 & 19), (Col. 2, lines 1-22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45). Thus, Claims 2, 3, 4, 19 & 20 are found to be unpatentable over considerable consideration of the teachings of Funk.

5. Regarding Claims 5, 14, 16 & 22, Funk discloses an (email) system wherein each queue is associated with at least one message transfer agent (MTA) processing thread that establishes a connection and transfers a message, (per pending Claims 14 & 22), with a recipient MTA, (Figs. 9-10; Col. 2, lines 1-

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22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45). Thus, Claims 5, 14, 16 & 22 are found to be unpatentable over considerable consideration of the teachings of Funk.

6. Regarding Claims 6, 23 & 24, Funk discloses an (email) system wherein at least one, (general) queue is obviously associated with a set comprising a plurality of MTA processing threads, (per pending Claim 6), wherein the set of MTA processing threads for said first queue is dedicated to transferring e-mail messages only to said frequently encountered, (specific) domain, (per pending Claim 23), and wherein the set of MTA processing threads for said second queue may transfer e-mail messages to different, (general) domains, (per pending Claim 24), (Col. 2, lines 1-22; Col. 11, lines 36-67; Cols. 12-13; & Col. 14, lines 1-45), (Examiner notes that any messages not destined for a specific domain will obviously not be put in that specific domain's queue. As such, said messages would still require processing for delivery and thus be required to be in a queue, which queue could obviously be a general queue for processing and delivery of non-specifically designated messages). Thus, Claims 6, 23 & 24 are found to be unpatentable over considerable consideration of the teachings of Funk.

7. Regarding Claims 7, 15, 17 & 18, Funk discloses an (email) system wherein the actual number of MTA processing threads employed by a given queue is controlled at runtime, (per pending Claim 15), wherein control is based, at least in part, on how many e-mail messages are posted to the given queue at runtime, (per pending Claim 17), and obviously subject to a maximum limit, (per pending Claim 18), and wherein said sets of MTA processing threads is

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dynamically configurable, for optimizing resources allocated for a given queue, (per pending Claim 7), (Col. 13, lines 33-67 & Col. 14, lines 1-2). Thus, Claims 7, 15, 17 & 18 are found to be unpatentable over considerable consideration of the teachings of Funk.

8. Regarding Claim 8, Funk discloses a system which receives a plurality of outbound email messages, (Col. 3, lines 35-67 & Col. 4, lines 1-25), from at least one composer program which automatically composes email messages based on database information, (Col. 7, lines 9-15 & Col. 9, lines 56-61). Thus, Claim 8 is found to be unpatentable over considerable consideration of the teachings of Funk.

9. Regarding Claim 9, Funk obviously discloses the use of SMTP (email) and bulk data, (Col. 3, lines 35-37). Thus, Claim 9 is found to be unpatentable over considerable consideration of the teachings of Funk.

10. Regarding Claim 10, Funk discloses creating at least one clone e-mail message upon encountering an e-mail message addressed to more than one recipient; and processing each clone for transfer, (Col. 8, lines 47-49), (Examiner notes that Funk clearly teaches creation of email from database information, (Col. 9, lines 56-61), and processing of high-volume email messages by destination address, (Col. 11, lines 49-52), wherein it would have been obvious within a system focused on efficient high-volume email transmission, (like that of Funk), to "clone" a message destined for multiple destinations, as "cloning" a message would obviously take less processing than composing a message from

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scratch). Thus, Claim 10 is found to be unpatentable over considerable consideration of the teachings of Funk.

11. Regarding Claims 11 & 25, though Funk teaches numerous databases including a message database, (Fig. 2), Funk does not specifically disclose a reference to the email contents such that contents are not duplicated, (per pending Claim 11), and a connection cache for storing information about connections that have been made to other domains, (per pending Claim 25). Examiner notes that within an efficient email system like that of Funk, it would have been obvious to store email (message) contents with a reference to the same, as a reference to the email obviously takes up less memory than the actual email. Additionally, storage of cache connection information would obviously provide faster repeated connection to the same domain. Moreover, as Funk teaches numerous databases and storage means maintaining a variety of information, storage of email references and connection information would have been obvious, (Fig. 2; Col. 6, lines 24-52; & Col. 9, lines 62-64). Thus, Claims 11 & 25 are found to be unpatentable over considerable consideration of the teachings of Funk.

12. Regarding Claim 12, Funk discloses wherein in the event that a particular e-mail message cannot be successfully processed upon an initial attempt, routing the particular message to another message transport agent (MTA) which is to re-attempt transport, (Col. 14, lines 3-67 & Col. 15, lines 1-3). Thus, Claim 12 is found to be unpatentable over considerable consideration of the teachings of Funk.

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Conclusion

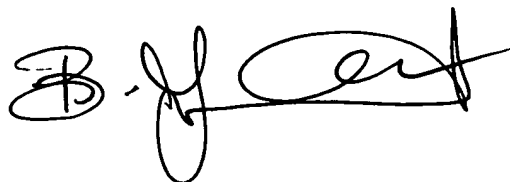
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
Examiner
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AML

A handwritten signature in black ink, appearing to read 'Bunjod Jaroenchonwanit', with a stylized flourish at the end.

**BUNJOD JAROENCHONWANIT
PRIMARY EXAMINER**